

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**ANTICIPATORY BAIL APPLICATION NO.2255 OF 2018**

Deepak Baban Patil ] ... Applicant

Versus

The State of Maharashtra ] ... Respondent

Mr. Mahendra Shingade, Advocate for the Applicant.  
Smt. A.A. Takalkar, APP for the State/Respondent.

**CORAM :- SARANG V. KOTWAL, J.**  
**DATE :- 17 JUNE, 2019.**

**P. C. :-**

1. The applicant is seeking anticipatory bail in connection with C.R.No.53/2017 registered with Kamothe Police Station, Navi Mumbai u/sec. 406, 420 r/w 34 of I.P.C. and under Section 4 (1) and 13 (1) of the Maharashtra Ownership of Flats (Regulations of the Promotion of Construction, Sale, Management Transfer) Act, 1963.

2. The FIR is lodged by one Nandkishore Dalvi on 20/04/2017. It is his FIR that he came across an advertisement in the name of Unity Builders and Developers for sale of flats and shops. He approached the builder. The Sales Manager informed him about the project and it

was told to the first informant that the project would be completed by December 2016 and if 30% of the purchase price is paid earlier, the registration stamp duty, VAT and Service Tax will be paid by the builder. The Sales Manager took the first informant to the project site. On 04/01/2015, the informant met the developer Nitin Zende. He represented to him that he had taken that plot i.e. Survey No. 681/A-1, Motha Khanda Village, Taluka Panvel from the original land owners who were interested in the development of the plot. He informed that he had started that development project and he had all the requisite permissions. He further represented that the title of the plot was clear. On some negotiations, the price was fixed and informant decided to purchase two flats and two shops for himself and his wife. In all he paid Rs.21,00,000/-.

3. After March 2015 to June 2015 the said builder shifted his office. There was only little development on the land and the foundation was laid. However, thereafter there was absolutely no progress. In April, 2016 the first informant tried to contact the builder. At that time, the informant was told that the original developer had transferred the project to the present applicant who

would be honoring the commitment made to the first informant. When the first informant tried to meet the present applicant, he was never accessible. The first informant came to know that there were other victims whose money was locked with this builder. Ultimately, on 21/08/2016, the present applicant met the first informant but he refused to give concession to the people who had booked the flats as per representation made by the earlier builder. Thereafter, there was no progress. The money was not returned. On further inquiry, the first informant and others came to know that the CIDCO had even not granted permission to develop the said land and thus there is absolutely no chance of further progress in the project. Thus, the first informant and others were cheated and so the first informant lodged this FIR.

4 Heard Mr. Mahendra Shingade, Ld. Counsel for the Applicant and Smt. A.A. Takalkar, Ld. APP for the State/Respondent.

5. Ld. Counsel for the applicant submitted that he took that development project from the original builder Zende. Nitin Zende is the main culprit who had cheated even the present applicant. He

further submitted that the applicant had made several complaints to the various authorities in respect of his own victimisation in the entire transaction. He also suffered loss at the instance of said Nitin Zende.

6. Ld. APP pointed out the agreement between the applicant and said Zende. Copy of the said agreement is annexed to the present application by the applicant. The agreement shows that the present applicant had stepped into the shoes of the earlier developer and had taken over the entire project for development. The applicant had taken responsibility to pay cancellation charges as well. However, all these commitments are not fulfilled. The narration of the FIR shows that the applicant initially even refused to meet the first informant and others and subsequently refused to repay their amount or give them any concession. The agreement annexed with the application shows that the applicant was aware that the requisite permissions were not obtained. In this view of the matter, prima facie, it appears that there is some collusion between earlier builder Nitin Zende and the applicant.

7. Ld. APP pointed out that the anticipatory bail of Nitin Zende

preferred by ABA No.1868/2017 is already rejected by this court vide order dated 24/09/2018. Since there appears to be collusion between Zende and the present applicant even the present applicant does not deserve protection of anticipatory bail. There are many victims and it is necessary that the Investigating Officer interrogates the present applicant through custodial interrogation. Therefore, no case for anticipatory bail is made out. Hence, the following order.

***ORDER***

Application is rejected and stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**